

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

CHESTER EVANS,

Plaintiff,

v.

WAL-MART STORES, INC.,

Defendant.

Case No. 04-cv-781-DRH

ORDER

HERNDON, District Judge:

Plaintiff initially filed a Motion for Voluntary Dismissal pursuant to **FED. R. Civ. P. 41(a)(2)**. (Doc. 18.) Because Defendant had previously filed its Answer, Plaintiff needed to seek the Court's permission in order to grant Plaintiff's request for voluntary dismissal of this case. Defendant opposed Plaintiff's initial motion. (Doc. 19.) The Court denied Plaintiff's Motion without prejudice, finding Plaintiff had failed to state any grounds to support its request for a voluntary dismissal without prejudice. (Doc. 20.) However, in its Order, the Court allowed Plaintiff to file another similar Rule 41(a)(2) motion, specifying grounds for dismissal. Accordingly, on October 11, 2005, Plaintiff has once again filed a Motion for Voluntary Dismissal, pursuant to **FED. R. Civ. P. 41(a)(2)**. (Doc. 21.) Therefore, Defendant has ten (10) days from the time of filing in which to respond to the instant motion. See Local Rule 7.1(c); see also **FED. R. Civ. P. 6**.

In the interim of Defendant's response time, the Court notes that a final pretrial conference is scheduled for this case on Friday, October 21, 2005, at 3:00 p.m. As Plaintiff's motion could likely render moot the need for the pretrial conference, the Court *sua sponte* cancels the pretrial hearing, so that it may properly consider Plaintiff's motion, and Defendant's response, if filed. A final pretrial conference will be rescheduled, if circumstances so warrant, at a date and time to be later determined.

IT IS SO ORDERED.

Signed this 17th day of October, 2005.

/s/ David RHerndon
United States District Judge